IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY NINTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

WRIT PETITION NO : 6929 of 1994

Between:

A. Indira, W/o Chandra Prakash,

R/o Nizamabad

..... PETITIONER

AND

1 The Government of Andhra Pradesh, represented by its

Principal Secretary, Municipal Administration and Urban

Development Department,
Secretariat, Hyderabad
2 The District Collector and Special Officer, Municipality
Nizamabad
3 The Commissioner,
Municipal Council, Nizamabad

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to call for the records relating to the G.O. Ms. No. 126 MA., dt. 26/02/94 issued by cancelling the G.O. Ms. No. 259 M.A., dt. 8/04/1993 which was issued for allotment of Municipal land to an extent of 335.16 sq.yds. in L.P.No. 30/77 in favour of the petitioner herein and quash the same by issuing a writ of Certiorari or any other appropriate writ, order or direction by duly declaring the G.O.Ms.No.126 M.A. dt. 26/02/94 issued by the 1st respondent as illegal, arbitrary and contrary to the provisions of the Municipalities Act as well as Acquistition and Transfer of Immovable Properties Rules, 1967, and consequently direct the respondents to implement the G.O.Ms.NO. 259 M.A.dt. 8/04/93.

For the Petitioner: Mr. V.RAVI KIRAN RAO, Advocate.
For Respondent Nos. 1 & 2.: GP FOR MUNCIPAL ADMN. & URBAN DEV.
For Respondent No. 3: Mr. R. Thimma Reddy, Standing Counsel.

The Court made the following Order:

The petitioner invokes the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India with a prayer to call for the records relating to G.O Ms. No. 126, Municipal Administration dated 26.2.1994 issued by the 1st respondent-Government by cancelling G.O. Ms. No. 259, Municipal Administration dated 8.4.1993 and to quash the same by issuing a writ of Certiorari. The petitioner also prays for a consequential direction to the respondents to implement G.O Ms. No. 259 dated 8.4.1993.

A few relevant facts are required to be noticed to appreciate the issue involved in the writ petition requiring the resolution.

The case of the petitioner is that her land in plot
No. 5-9-878/8 situated at Yellammagutta was affected in the master plan prepared in the year 1983 for formation of link road and drainage canals for the Bank Colony. In lieu of compensation, the Municipality allotted an equal portion of land from out of open space of layout plan No. 27/66. Some disputes had arisen with regard to the same. The Municipality however passed a resolution on 25.2.1988 recommending to the 1st respondent-Government for allotment of land from layout plan
No. 30/77. The District Collector and Director of Town and Country Planning, Hyderabad also made recommendation based on which the Government issued G.O Ms. No. 259 dated 8.4.1993 for allotment of municipal land in an extent of 335.16 square yards in layout plan No. 30/77 in favour of the petitioner. The said G.O remained unimplemented. The petitioner filed W.P No. 9732 of 1993 on 16.7.1993 seeking direction as against the respondents to implement G.O Ms. No. 259 dated 8.4.1993.

In the meanwhile, the Government issued a show cause notice dated 11.10.1993 requiring the petitioner to show cause as to why the orders issued in G.O. Ms. No. 259 dated 8.4.1993 should not be cancelled. The petitioner submitted a detailed

representation dated 21.10.1993 with a request not to cancel the G.O issued in her favour. The Government having considered the objections cancelled G.O. Ms. No. 259 dated 8.4.1993 vide G.O Ms. No. 126 dated 26.2.1994. The same is impugned in this writ petition.

In the counter affidavit filed by the 1st respondent-Government, it is explained in clear and categorical terms that the link road site which is exclusively claimed by the petitioner actually belongs to three persons including the petitioner. The two other individuals namely one and Sri R. Pedda Gangaram and R. Chinna Gangaram expressed their unwillingness to offer the site for the purposes of formation of the link road. It is admitted that "the site of the petitioner effected in the link road is only 130 sq.yards. But the petitioner claiming compensation for the entire extent of 335.16 sq.yds. Even 130 sq.yds of the site is not handed over to the Municipality till date".

Detailed reasons are stated in the counter affidavit as to when and under what circumstances earlier G.O Ms. No. 259 dated 8.4.1993 was issued without verifying the true and correct facts. It is also explained that the road in question is not a master plan road and serving only a few houses including the petitioner's house. There is no approved layout for these houses from the Nizamabad Municipality.

Concededly, even according to the 1st respondent, land admeasuring 130 square yards belonging to the petitioner is affected in the link road for which the petitioner is entitled to payment of compensation.

Having admitted that an extent of 130 square yards of land belonging to the petitioner is affected and taken over for the purpose of laying the link road, the 1st respondent states in the counter that the actual extent of the site of the petitioner covered by the Concrete Cement road (CC road) is 95.33 square yards only (measuring 22' X 39') and the land belonging to others admeasuring an extent of 135.16 square yards has been covered by the said CC road. The 1st respondent is making an attempt to confuse the issue. Having admitted that the petitioner lost about 130 square yards in the formation of the link road, the 1st respondent cannot be allowed to turn round and say that only an extent of 95.33 square yards of land alone has been effected on account of laying of the CC road and drain. The rest of the land may have been affected in the formation of the road. Merely because the CC road covers only 95.33 square yards, the petitioner cannot be deprived of her

legitimate right to receive the compensation for the actual extent of the land lost by her, which admittedly admeasures an extent of 130 square yards.

In my considered opinion, the petitioner is entitled to payment of compensation for the extent of 130 square yards of land as per the orders issued in G.O Ms. No. 256 dated 28.5.1986. The petitioner also shall be entitled to payment of interest at the rate of 9% per annum on the compensation payable to her.

The Writ Petition is accordingly disposed of directing the respondents herein to pay compensation to the petitioner in lieu of 130 square yards of her land affected in the formation of the link road. The payment shall be made within a period of three months from the date of receipt of a copy of the Order. No order as to costs.

(B. Sudershan Reddy, J)

29..07..2004

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SPECIAL OFFICER

//TRUE COPY//

SECTION OFFICER

To

1 The Principal Secretary, Municipal Administration and Urban

Development Department, the Government of Andhra Pradesh,
Secretariat, Hyderabad.

2 The District Collector and Special Officer, Municipality
Nizamabad.
3 The Commissioner,
Municipal Council, Nizamabad.

4 2 CCs to the Government Pleader for Municipal Administration

and Urban Development, High Court Buildings, Hyderabad

(OUT).

5 2 CD copies.